

1885-034 Chancery Causes: Russell G. Milham vs. William T. Miller
Lee Co.

CA-Debt

T-Property

To the Hon. John A. Kelly Judge of the circuit Court of
Lee County Virginia

Humbly complaining your Orator Rufell J. Melham
a citizen of said county of Lee would respectfully show unto your
Honor, that one Harry J. Morgan as agent of William Barnes deed
on the 29th day of August 1873 obtained a judgment in your
Honor's Court against William W. Sage then late Constable of Lee
county, and one William P. Miller and your Orator as his Sureties
for the Sum of \$97.21 with legal interest thereon from the 18th
day of July 1859 till paid, and costs amounting to \$11.23 a
transcript of said judgment is here filed marked (A) and is prayed
to be considered as a part of this bill. Said judgment was rendered
as stated, subject to a credit of \$30.00 paid Feb. 21. 1860 This judgment
was rendered by your Honor on account of money collected by said
Sage as such Constable and not paid over. At the time
said judgment was rendered, the said Sage was insolvent
so that no part of the same was or could be made out of his property
and he has thus continued to the present time & is now wholly insolvent

Your Orator further States that on the 23rd day of January 1874
an Execution was issued on said judgment from the clerk's office
of your Honor's Court which went into the hands of Charles L. Ham-
blen then high sheriff of the county of Lee who proceeded to en-
force payment of the same out of said William P. Miller and
your Orator as the sureties of said Sage and on the 20th day
of April 1874 said Miller paid to said Hamblen as such sheriff
in discharge thereof the sum of \$44.46 And your Orator was
compelled to pay the residue thereof and in doing ^{so} he made
the following payments at the following times to wit

\$45.00 paid March 16-1874. \$20.00 paid April 20th 1874
\$30.00 paid July 20-1874 + \$11.45 paid Nov. 20th 1876. The first
three of these payments was made by your Orator to said
Hamblen and the fourth and last to said Morgan and the
original execution showing these payments is herewith filed
as a further part of this bill marked (B)

Your Orator is advised that the judgment aforesaid constitutes
a valid and subsisting lien on the real estate owned by said
Miller at the time or since acquired, and your Orator is
further advised that he is entitled to recover against said Wm
P. Miller such Sum as will make an equal half of said
judgment taking into consideration the Sum already paid
by him. And your Orator here charges that he is entitled
to, and ought to recover against said Miller on account of an
over payment by him over and above an equal half thereof
the Sum of \$34.80 with legal interest thereon from the 20th day
of Nov. 1876 till paid as shown by a calculation and statement
of said payments herewith filed marked (C) And your Orator
is likewise advised that he having paid ^{said} Sum which the said
Miller ought to have ^{paid} and for which he is liable under the law
of the land, that your Orator is entitled in a court of equity to
be substituted to the lien of said Morgan as against said Miller
and to have said lien enforced as against his real estate to the
extent of said \$34.80 with interest as aforesaid and the costs of suit

Your Orator further States that said Miller does not now
own any personal property liable to be taken in execution
for his debts, so that a judgment at law would be wholly
unavailing against him. He is however the owner of a

consecrable tract of land made up of several smaller
pieces adjoining each other lying about 2 1/2 miles north
east of Jonesville on the Stephens Springs road in said county
on which said judgment operates as a lien, your Orator
further states that since the 29th day of August 1873 the day
when said judgment was rendered, other persons have obtained
large judgments against said Miller which also constitute
liens on his real estate. So that if your Orator is not substituted
to the lien of said Morgans judgment, he will in all probability
lose his claim. The premises considered, the prayer of your
Orator is that the said William P. Miller be made the party defendant
to this bill, and be required to answer the same on oath, and
upon a hearing of the cause, a decree be rendered against him
in favor of your Orator for \$34.80 with interest thereon from the
20th of Nov. 1876 till paid and the costs. That your Orator be
substituted and remitted to the lien of said Morgans judgment
as of the 29th day of August 1873, that the same be enforced
by a decree of sale of so much of said Millers real estate as will
be necessary to pay said sum of money interest & costs, or if
thought more advisable, that the real estate of said Miller
be rented out for such length of time as will pay said debt
interest interest and cost. And if your Orator is in any
wise mistaken in this his special prayer, then he prays for
all general relief May command the writ of Habeas Corpus.

Ayers & Morgan P. L.

L 325 Apr 1882
A 1500

18.25
C 2.32 to Jan 1884
72

3.25
308
633

Russell M. Adams

is } Bill in Chy

William P. Miller

1882. April Term Placed on
Docket by consent of Dft.
and decree by conf. in
Mr. ofm cant + Court

" Aug - Continued
1883 Court this year

1884 Court this year

1883 - March Court

" Aug Decree final

R. J. Mahan vs. Wm. P. Miller.

On calling this cause at this term it was announced
by counsel
by a writing filed in the cause, that the debt to enforce
which the suit had been brought, and the costs of the
suit had been fully paid by the debt Miller ^{some} ~~had~~
~~the last term.~~
~~been paid and fully settled~~ It is therefore adjudged
ordered & decreed that the parties be hence dismissed &
the cause taken from the docket

R. J. Milsam

27 { Damm Ginal

Wm. P. Miller

Entered Page 454.

J. A. B. Hyatt

Entered this

In 2516

Aug 24/85

Russell J. Micham Plff.
 vs
 Wm. P. Miller Defth.

In Chancery

The plaintiff by counsel, and the Defth in his proper person appeared this day before the Judge of this Court, where the said defendant signed and acknowledged the paper which is filed with the other exhibits marked (D) And therefore the cause came on to be heard this day on the bill of the Plff and exhibits therewith, and said paper (D) and was argued by counsel. On consideration whereof it is adjudged ordered and decreed that the Plff recover of the defendant \$34.80 with legal interest thereon from the 20th day of November 1876 till paid and the costs. And the said Plff is substituted to the lien of the judgment in his bill mentioned as of the 29th day of Aug 1873, And the Plff being willing at this time to take a decree for renting the land in the bill mentioned, without relinquishing his right to have the same decreed to be sold in the event such renting should prove unavailing It is therefore further adjudged ordered and decreed that unless the said defendant, shall pay said debt interest and costs to the Plff, within 30 days after the rising of this Court. Then Henry J. Morgan who is appointed a commissioner for the purpose will proceed to rent out the land in the bill mentioned on a credit of 12 months with interest from date of leaving, for the shortest space of time that the same will yield the requisite sum, ^{the rents to be paid annually} said renting to take place at the door of the Court house on some Court day after 30 days notice of the time place and terms. Said Court will reserve his action

Russell J. Micham

vs. } Decree No. 1

Wm. P. Miller

Entered page 254

J. A. Hyatt
Clerk

Enter this decree

J. A. H.

Apr. 4/82

To the court and the cause is continued

Virginia

At a circuit held for Lee Co. the 29th day of Aug 1873
Henry J. Morgan admr. of W. Barnes Poff } or a motion for
vs. } money collected
Wm. H. Sage late Const. + R. J. Milburn and } by said Sage late
William P. Miller his Sureties } Dfts Const as aforesaid
and not paid over.

This day came again the plaintiff by his attorney and
also the dft Sage by his attorney, and it having been heretofore
suggested upon the record in this cause that the dft Sage
had gone into bankruptcy, the court is of opinion that his
said bankruptcy is no bar to this action against him
and it appearing to the court that the other dfts have had
legal notice of this motion and being called came not.

It is therefore considered by the court that the Poff
recover against the dfts Sage, Milburn and Miller
\$97.21 the amount of the claims in the notice mentioned
at the time the same ought to have been accounted for by the
said constable with legal interest thereon from the 18th
day of July 1859 till paid and the cost. Subject to a
credit of \$30.00 paid Feb. 21st 1860

Henry J. Morgan admr.

vs { copy of Judgt

Wm. W. Sage & others

(A)

The Commonwealth of Virginia ;

TO THE SHERIFF OF LEE

COUNTY, GREETING :

We command you that of the goods and chattels of *Wm W. Sage R. J. Mileham & Wm F. Miller*

late of your bailiwick, you cause to be made \$ *77.21* with interest at 6 per cent.
per annum from the *18th* day of *July* 18*77* until paid, which

Henry J. Morgan Adm'r of Wm Barnes dec'd

Circuit
lately in our County Court of Lee has recovered against *them* for
money collected by said Sage as late Constable not paid over
debt; also \$ *10.65* which to the said *Morgan Adm'r &c*

in the same court were adjudged for *his* costs in that behalf expended, whereof
the said *Sage Mileham & Miller are* convict, as appears to

us of record; and that you have the same before the Judge of our said *Court* county, at the court-
house, on the *first* Monday in *April* next, to render unto the said

Morgan Adm'r &c as aforesaid of the
debts and costs aforesaid. And have then there this writ. Witness, JAS. W. ORR, Clerk of

our said Court, at the court-house, the *28th* day of *January* 1873, in
the *78th* year of the Commonwealth.

James W. Orr Clerk

*8 6.65
2 2.50
3 1.50
10 10.65
11 3.85
11 2.23*

1874 March 14 En 134 \$46.00 14y 12.7. 5 Mills. 1874

1874 April 20 " " 20.00

46.00 commission 32.5. 10.00 1874

Recd of C. L. Hamblen S. L. C. Fifty Two dollars on the

Within five March 17th 1874

H. J. Morgan Adm of
Wm. C. Morgan adms

Paid on the abatement fifty

fifty three dollars

H. J. Morgan adms.

April 23rd 1874

36

S

1840

H. J. Morgan Adm +
vs } Li. Sta
Wm W. Sage et als
No security to be taken

Per Monday in April 1874

Executed by levying on one
two horse wagon & harness
Jan'y 23rd 1874, the property of
Wm W. Sage
C. L. Hamblen S. L. C.

Executed by levying on one
Sarral mare Feb'y 16th 1874
The property of R. J. Milburn
Thos. S. C. J. S. L.

The above Levy is
not executed by order
of H. J. Morgan adm
C. L. Hamblen S. L. C.

(B)

Recd Aug 1st 1874. of C. L. Hamblen late S. L. C. on the
the sum of Twenty Seven dollars and 40 cents on
the within filed
Credit Nov 1876 by \$11.45 the balance
on the within filed by C. L. Hamblen
Henry J. Morgan adm
of William C. Morgan

1874 April 20 En 134 \$44.46 Recd the 12. 10. 1874, to C. L. Hamblen
1874 July 20 En 134 50.00 Recd by H. J. Morgan

Henry J. Morgan admr. of Wm. Barnes

vs.
W. W. Sage late Const. & Wm. P. Miller &

Russell J. Milham his Sureties.

In this case said Sage was insolvent and the said Miller and Milham as his Sureties were called on and compelled to pay the judgment, and in doing so the same was paid by them as follows.

Paid by Wm. P. Miller April 20-1874 this Sum

\$44.46

Int to Nov. 20th 1876.

6.89

\$51.35

Paid by R. J. Milham March 16-1874 \$45.00

Int to Nov 20-1876. 7.20

" " Same April 20-1874. 20.00

Int to Nov. 20-1876 3.10

" " Same July 20-1874. 30.00

Int to Nov 20 1876. 4.20

" " Same Nov. 20th 1876 11.45 120.95

Total Sum paid + Int to Nov. 20-1876. - \$172.30

One half thereof which W. P. Miller should have paid \$86.15

" " " " R. J. Milham " " 86.15 172.30

The Share which Miller should pay Nov. 20 1876 is \$86.15

The Sum " he has paid as above is 51.35

" Balance which Miller owes Milham Nov. 20/76 is - \$34.80

Milham has paid as above Nov. 20 1876 \$120.95

To be paid him by Miller Nov. 20 1876 34.80

Then Milham's loss will be - 86.15

H. J. Morgan admr.

Ston { Statement of payments

Milham & Miller

(6)

Russell J. Milham plaintiff.

vs

William P. Miller Deft.

} In Chancery.

I, William P. Miller, defendant, agree that this cause shall be docketed at this the March term 1882, ~~for~~ of the Circuit Court for Lee County, and I enter my appearance thereto, and having no sufficient defense to the bill, consent that a decree may be rendered against me, for the sum of \$34.80, with int. from the 20th Novr. 1876 till paid, & the costs of suit, to be enforced by a decree for renting my land.

Wm P. Miller

W. P. Miller

ad.

R. J. Milham

Confession of Debt

(D)

Russell J. Mahan Off }
vs. } In Chg
Wm. P. Miller Deft }

To the Hon John A. Kelly Judge of the Circuit
Court of Lee County Va.

Since the last term of your Honor Court the
deft Wm. P. Miller sold a small piece of land, and
out of the proceeds thereof has fully paid the debt
heretofore decreed the plaintiff in this cause, and the
costs of suit. The cause may therefore be stricken
from the docket.

H. J. Morgan

June 23rd 1885

R. J. Milham

105

Wm. P. Miller

Statement of Council